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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,825	10/24/2005	Nicolas Paul Monks	MONKS1	4587
1444 7590 05/21/2009 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
CHIN SHUE, ALVIN C				
ART UNIT		PAPER NUMBER		
3634				
MAIL DATE		DELIVERY MODE		
05/21/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/527,825

**Applicant(s)**

MONKS, NICOLAS PAUL

**Examiner**

Alvin C. Chin-Shue

**Art Unit**

3634

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-38, 40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) 21, 25, 31 and 35-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22, 32-34, 40 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Claim 34 is objected to because of the following informalities: the phrase “the carrying means” lacks antecedent basis. Appropriate correction is required.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22,32-34,40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al. Smith. Smith shows the claimed arrangement having tracks which include a track at each section 13, 14 and 15 and having open end exits, note fig. 12a and at 33, the claimed difference being the magnetic braking means. To provide his arrangement with conventional magnetic braking means, in lieu of his braking means at his exits, would have been an obvious to one of ordinary skill in the art at the time the invention was made by the substituted use of one known braking means for another. The examiner TAKES OFFICIAL NOTICE that the use of a metal plate as a magnetizable element is conventional, and to provide his harness with conventional magnetizable plate, as set forth in claim 40, would have been an obvious to one of ordinary skill in the art at the time the invention was made by in view of the conventional practice.

Claims 22,32-34,40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith, Jr. et al. Smith. Smith shows the claimed arrangement including open end exits, note fig. 12a and at 33, the claimed difference being the plurality of tracks and the magnetic braking means. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide additional of his track by duplication of his teaching to enable escape for more than one area of the building. To provide his arrangement with conventional magnetic braking means, in lieu of his braking means at his exits, would have been an obvious to one of ordinary skill in the art at the time the invention was made by the substituted use of one known braking means for another. The examiner TAKES OFFICIAL NOTICE that the use of a metal plate as a magnetizable element is conventional, and to provide his harness with conventional magnetizable plate, as set forth in claim 40, would have been an obvious to one of ordinary skill in the art at the time the invention was made by in view of the conventional practice.

Claims 32-34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Massa in view of Lehotsky. Massa shows the claimed arrangement with the exception of the tracks and harness for same. Lehotsky shows parallel tracks and a harness with dual supports. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an

additional of his track system in parallel relations to his first and to provide a harness with dual support for the parallel tracks, as taught by Lehotsky, to enable a stable support of a user. To provide his arrangement with conventional magnetic braking means, as claimed, would have been an obvious to one of ordinary skill in the art at the time the invention was made by the substituted use of one known braking means for another. The examiner TAKES OFFICIAL NOTICE that the use of a metal plate as a magnetizable element is conventional, and to provide his harness with conventional magnetizable plate, as set forth in claim 40, would have been an obvious to one of ordinary skill in the art at the time the invention was made by in view of the conventional practice.

Claims 32-34 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of German pat. '278 to Bernard. Lewis shows the claimed arrangement with the exception of the harness. Bernard shows a harness with dual supports for spaced tracks. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Lewis with a harness with dual support for his spaced tracks, as taught by Bernard, to enable a confined support of a user. To provide his arrangement with conventional magnetic braking means, as claimed, would have been an obvious to one of ordinary skill in the art at the time the invention was made by the substituted use of one known braking

means for another. The examiner TAKES OFFICIAL NOTICE that the use of a metal plate as a magnetizable element is conventional, and to provide his harness with conventional magnetizable plate, as set forth in claim 40, would have been an obvious to one of ordinary skill in the art at the time the invention was made by in view of the conventional practice.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis and German pat. '278 to Bernard, as applied to claim 32 above, and further in view of Kleine et al. Kleine teaches the interchangeable use of cable and rod as a track for a safety harness. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Lewis with rod tracks, in lieu of his cable tracks in view of their interchangeable use, as taught by Kleine.

Applicant's arguments filed 10/20/08 have been fully considered but they are not persuasive. With respect to Massa, Massa arrangement maybe and used as a rescue arrangement, and as admitted by applicant that the magnetic braking means used is known, note that no description of same is disclosed by applicant, it is within the scope of one of ordinary skill in the art to substitute one known braking means for another or to provide a known braking means where braking is desired.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject

matter of claim 40 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims 21,25,31 and 35-38 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being

no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/23/09.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 571-272-6828. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alvin C. Chin-Shue  
Primary Examiner  
Art Unit 3634

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